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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,769	12/27/2001	Shuang Liu	DM-6950	9943
46339	7590	09/01/2005	EXAMINER	
BRISTOL - MYERS SQUIBB COMPANY PO BOX 4000 PRINCETON, NJ 08543-4000			JONES, DAMERON LEVEST	
		ART UNIT		PAPER NUMBER
		1618		

DATE MAILED: 09/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/033,769	LIU, SHUANG	
	<b>Examiner</b>	<b>Art Unit</b>	
	D. L. Jones	1618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 August 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,3-9,15,17-22,27,29-34,39,41-46 and 66-87 is/are pending in the application.
- 4a) Of the above claim(s) 29-34 and 41-46 is/are withdrawn from consideration.
- 5) Claim(s) 1, 3-9, 15, 17-22, 27, 39, and 66-86 (in part) is/are allowed.
- 6) Claim(s) 87 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

**VACATE THE PREVIOUS OFFICE ACTION**

1. The office action mailed 5/17/05 is WITHDRAWN for reasons of record in Applicant's remarks filed 8/17/05.

**Note:** Claims 1, 3-9, 15, 17-22, 27, 29-34, 39, 41-46, and 66-87 are pending.

**RESPONSE TO APPLICANT'S ARGUMENTS/AMENDMENTS**

2. The Applicant's arguments filed 8/17/05 to the rejection of claim 87 made by the Examiner under 35 USC 102 has been fully considered and deemed persuasive because for reasons of record in Applicant's response. Therefore, the said rejection is hereby withdrawn.

**COMMENTS/NOTES**

3. It is duly noted that Applicant has amended and/or canceled the appropriate claims to overcome the previously cited prior art as set forth in the response filed 2/1/05. Thus, the search is once again expanded to the species wherein A = N and k = 0. The search was not further expanded because prior art was found which could be used to reject Applicant's claims.

**NEW GROUNDS OF REJECTION (102 Rejection)**

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 87 is rejected under 35 U.S.C. 102(b) as being anticipated Mitzel et al (J. Am. Chem. Soc., 1996, 118, 12673-12682).

Mitzel et al disclose a compound, N(NH<sub>2</sub>)<sub>3</sub>, that encompasses Applicant's claims when A = N and k = 0 (see entire document, especially, page 12673, abstract; page 12673, column 1, second complete paragraph; Page 12676, Table 3; and page 12676, column 1, 'Ab Initio Calculations on P(NH<sub>2</sub>)<sub>3</sub>'. Hence, both Applicant and Mitzel et al disclose a compound encompassed by the formula set forth in Applicant's independent claim 87.

## ALLOWABLE CLAIMS

6. Claims 1, 3-9, 15, 17-22, 27, 39, and 66-86 (in part) are allowable over Applicant's elected species and the species represented as EXP#1 in the office action mailed 7/29/03.

Elected species: the chelant is tripodal; the spacer, A, is N; E1, E2, and E3 are (CH<sub>2</sub>)<sub>k</sub>-NHCOCH<sub>2</sub>N(CH<sub>2</sub>COOH)<sub>2</sub>; and the radionuclide is 90Y.

EXP #1: A = R<sub>1</sub>-C, R<sub>1</sub>-Si, R<sub>1</sub>-Ge, N, P, and P(O); k = 0 – 3; E1, E2, and E3 = (CR<sub>17</sub>R<sub>18</sub>)<sub>k</sub>-Z-X-(CR<sub>19</sub>R<sub>20</sub>)NR<sub>21</sub>R<sub>22</sub>; Z = bond, O, NH, NR<sub>1</sub>NR<sub>1</sub>, ONH, N(OR<sub>1</sub>); X = P(O)(OR<sub>1</sub>); I = 1 – 3; and R<sub>1</sub> and R<sub>17</sub>-R<sub>22</sub> are as set forth in the claims.

Note: It should be noted that the full scope of all the pending claims has not been searched since prior art has been found to reject the claims.

## WITHDRAWN CLAIMS

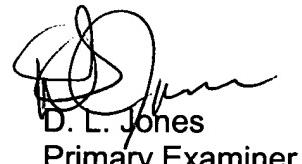
7. Claims 29-34 and 41-46 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention/species.
  
8. Applicant's amendment filed 2/1/05 necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. L. Jones whose telephone number is (571) 272-0617. The examiner can normally be reached on Mon.-Fri., 6:45 a.m. - 3:15 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



D. L. Jones  
Primary Examiner  
Art Unit 1616

August 29, 2005